

Miami Dade County

Stephen P. Clark Government Center
111 N.W. 1st Street
Miami, Fl. 33128



LEGISLATIVE ANALYSIS

Thursday January 15, 2004
2:00 PM
Commission Chambers

Board of County Commissioners

Transportation Committee

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION CALLING SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD ON TUESDAY, AUGUST 31, 2004 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER THE BOARD OF COUNTY COMMISSIONERS SHALL BE REQUIRED TO ENACT AN ORDINANCE CREATING THE MIAMI-DADE COUNTY AVIATION AUTHORITY

Commissioner Jimmy L. Morales

I. SUMMARY

This resolution would approve a special election on August 31, 2004 for the voters of Miami-Dade County to consider enactment of an ordinance creating an aviation authority to manage, operate and maintain the Miami-Dade County Aviation System. The proposed ordinance is identical to BCC Agenda Item 4(X) Substitute that was discussed and withdrawn at the November 4, 2003 BCC meeting.

II. PRESENT SITUATION

Under the present structure, the Airport System is operated as a County department under the County Manager and with governance provided by the Board of County Commissioners as established by Florida Statutes and the County Charter.

III. POLICY CHANGE AND IMPLICATION

Major changes that would result from creation of the proposed Authority:

- Fewer aviation-related agenda items will come to the Board of County Commissioners for approval.
- Airport System decision-making timelines (including procurements) should shorten.
- The Board's role will shift from operational management of each component of the Airport System to policy oversight and accountability of the Authority.

See Section V of this Legislative Analysis for a synopsis of key elements of the proposed ordinance.

IV. ECONOMIC IMPACT

Per the County Manager's memorandum that accompanied Item 4(X) and 4(X) Substitute on the November 4, 2003 BCC Agenda, there should be *"minimal impact to the County for FY 2003-04 [and] for future years, the fiscal impact will depend on the degree to which the Aviation Authority continues to contract for County service...estimated annual fiscal impact is estimated at less than \$3 million."*

Because the proposed ordinance stipulates continued use of County Police, Fire, and Attorney services, administrative reimbursements to the County for these services should remain relatively consistent with current levels. The proposed ordinance does not

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provide for fees to be paid by the Authority in return for the use of existing County-owned Airport System real and personal properties.

V. COMMENTS AND QUESTIONS

Research by a doctoral candidate at the University of Houston Department of Economics found that, on net, aviation authority operated airports were 14% more efficient than municipally operated airports.¹

Analysis of FitchRatings' bond ratings for aviation bond issues over the past several years (87 bond issues) indicates no significant difference in bond ratings between authority operated and government operated airports.

Summary of Fitch Aviation Bond Ratings (N=87 bond issues)
(based on FitchRatings report as of 7/21/03)

FitchRating	Aviation Authorities (n=48)	Municipal/County/State Management (n=39)	Other (n=1)
AAA (AAA+/AAA/AAA-)	0	0	
AA (AA+/AA/AA-)	9 (18.8%)	4 (10.3%)	
A (A+/A/A-)	34 (70.8%)	31 (79.5%)	1 (100%)
BBB (BBB+/BBB/BBB-)	4 (8.3%)	3 (7.7%)	
BB (BB+/BB/BB-)	1 (2.1%)	0	
B (B+/B/B-)	0	1 (2.6%)	
Subtotals	48 (100%)	39 (100%)	1 (100%)

¹ Airola, J., Craig, S. (2001 May). *Institutional efficiency in airport governance*. Retrieved October 30, 2003 from University of Houston web site: <http://www.uh.edu/~jairola/airport.pdf>

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Key elements of the proposed ordinance: (For reference purposes, a page number is listed in parentheses following each below listed element and refers to the handwritten page number in agenda item.)

- **Authority membership** (p. 10). Seven (7) members appointed as follows
 - Four appointed by Board of County Commissioners
 - One appointed by Chairperson, Board of County Commissioners
 - One appointed by Mayor, Miami-Dade County
 - One appointed by Governor, State of Florida
- **Term** (p. 12). Four (4) years except that the initial Authority members appointed by the Board of County Commissioners will be staggered by appointing 2 members for 2-year terms and 2 for 3-year terms.
- **Term limit** (p. 12). Two consecutive and complete 4-year terms.
- **Nomination for Authority membership** (pp. 16-17).
 - Appointments must be made from the slate nominated by the Nominating Council and be made within the allotted time.
 - Three (3) nominees are selected for each Authority opening by the Nominating Committee.
 - Nominating Committee slate cannot be rejected.
 - Nominees must be County residents, cannot be Authority or County employees, cannot be lobbyist (during or specified time before/after appointment), cannot be doing business with the Authority or Airport System, and must meet other criteria (p. 10-12).
- **Quorum.**
 - Authority: 4 members (p. 13).
 - Nominating Council: Majority provided that at least ½ of full Nominating Council have been designated by their respective organizations (p. 16).
- **Ethics and accountability.**
 - Members may be removed from office for misfeasance, malfeasance, or nonfeasance by a two-thirds (2/3) vote of the entire Board of County Commissioners membership (p. 12)
 - The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance applies to members, the Nominating Council and Authority employees (pp. 13-14).
 - Code of Silence provisions are imposed after the RFP, RFQ or bid is authorized for advertisement by the Authority (p. 11)
 - Sunshine and public records laws apply (p. 14).
 - The Authority is subject to audit by the County's Internal Auditor, the Office of Commission Auditor and the State Auditor General (p. 27).

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- **Compensation** (p. 12). Members serve without compensation except for reimbursement for necessary expenses.
- **Nominating Council membership** (pp. 14-15). Twelve (12) members, consisting of one (1) representative from each of the following organizations.

Greater Miami Chamber of Commerce, Inc.	Miami-Dade Chamber of Commerce, Inc.
Latin Chamber of the United States (CAMACOL)	Black Business Association, Inc.
League of Women Voters of Dade County, Inc.	Greater Miami Convention and Visitors Bureau, Inc.
The Beacon Council	Greater Miami Aviation Association, Inc.
Miami Business Forum, Inc.	World Trade Center Miami, Inc.
Miami-Dade County League of Cities	South Florida AFL-CIO

- **Authority powers** (pp. 17-26). In regard to the business, operation, management, and development of the Airport System, the Authority has the authorities of County as specified in Florida Statutes with specified exceptions.
 - Board of County Commissioners' approval is required:
 - To apply for FAA Part 139 air carrier airport certification for any airport within the airport system (p. 25).
 - For approval of the Airport System's Master Plan(s) every 5 years or as required by the FAA (p. 25).
 - For purchase or sale of real property (p. 23).
 - Board of County Commissioners *"reserves the exclusive power to enact laws and provide policies applicable to any aspect of the Airport System regarding the imposition of ad valorem taxes, eminent domain and zoning"* (Section 12, p. 26).
- **Authority shall:**
 - Report to the Commission annually within the 120 days subsequent to the end of the County's fiscal year (p. 26).
 - Be subject to audit by the County's Internal Auditor, the Office of Commission Auditor and the State Auditor General (p. 27).
 - Develop contract and procurement policies and procedures based on competitive considerations (p. 19).
 - Comply with federal regulations pertaining to Disadvantaged Business Enterprise (DBE) programs (p. 19).
 - Implement the County's programs relating to women, community small business, minority and community workforce participation and report to the Board of County Commissioners at least annually on these participative requirements (p. 19).
 - Utilize County police, fire-rescue and legal services (p. 20).
- **Employee protections** (pp. 21-22).

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- All current County employees are retained with current salary, wages, benefits, classified service employee retention rights and protections (pp. 21-22).
 - A "career service system" will continue and be modeled on the County's system and in accordance collective bargaining agreements.
 - At least 1 year after appointment of the initial Authority Board, a 6-month window will be allowed during which present Aviation Department employees may exercise his/her classified service employment rights in accordance with the County's Layoff Procedures Manual (p. 21).
 - Both Authority and County employees will be eligible to apply for either organization's employment vacancies that are open only to existing employees.
- **No sunset provision is included** (p. 26).
- **Amendments to the Authority Ordinance.** Once enacted, this ordinance specifies that it can only be amended or repealed by a 2/3 vote of the Commission membership (Section 21, p. 28).

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION RATIFYING ACTIONS OF COUNTY MANAGER, PURSUANT TO PROVISIONS OF ORDINANCE NO. 95-64, IN EXECUTING CHANGE ORDER NO. 2 TO PROJECT NO. B046B FOR MIA NEW NORTHSIDE RUNWAY AT MIAMI INTERNATIONAL AIRPORT, WITH GILBERT SOUTHERN CORPORATION

Aviation Department

I. SUMMARY

This resolution would ratify the County Manager's approval of Change Order No. 2 to the contract with Gilbert Southern Corp. for Miami for the North Runway at Miami International Airport (MIA). The net change resulting from this change order was the addition of 245 days (to February 28, 2004) with no change to the \$121,381,806 cost as previously approved through Change Order No. 1. Project cost would have decreased in this Change Order if it were not for the addition of FAA requested/reimbursable work and of allowance account adjustments in anticipation of the need to resolve additional contract issues with the contractor.

Of the 245 added days by this Change Order:

- (a) 55 compensable days (\$868,395 at \$15,789 per day) were added because of scheduling issues; and
- (b) 190 days were added for an FAA requested fiber optic cable project (\$672,591 lump sum; reimbursable by FAA.)

This Change Order resolves all issues noticed prior to June 16, 2003 except those in the contractor's Reservation of Rights. The issues that Gilbert Sullivan reserved its rights to seek compensation total \$1,892,787 and no (0) days (handwritten pp. 14-17). New issues could also arise. Even if the highly unlikely event all issues were resolved in Gilbert Sullivan's favor, the adjusted total for this project appears likely to remain substantially less than the original estimate (\$156.8 million per R-1370-00) for the project and less than the next lowest bidder (\$146.2 million by Codina-Beers-APAC joint venture.)

Following the submission of their bid for this contract, Gilbert Southern argued that it had mistakenly underbid this contract. However, the County found no errors in Gilbert Southern's submission, and the County Attorney determined their bid to be responsive. Gilbert Sullivan chose to honor their bid (\$110.6 million.)

This item reports that the current DBE Status is 11% and exceeds the contracts 10% DBE Measure. [Note: In the original contract award process, there had been concern about Gilbert Sullivan's compliance with the DBE requirements of 49 CFR 26. The County Manager's award recommendation was supported by correspondence from the Miami Airport Minority Affairs Committee and the Federal Aviation Agency, and the concerns were resolved to the BCC's satisfaction. See Attachments # 1 for Commission Minutes describing the discussion.]

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II. PRESENT SITUATION

As previously reported to the BCC by MDAD, the new North Runway entered service on September 4, 2003 even though some work is ongoing.

III. POLICY CHANGE AND IMPLICATION

None.

IV. ECONOMIC IMPACT

Estimated Cost:	\$156,815,104.92 (Per contract award approval, R-1370-00.)
Original Award:	\$110,579,000.00 & 760 days
Adjusted Cost:	\$121,381,806.00 (Change Order No. 1 added \$10,802,806 for a new taxilane)
	\$121,381,806.00 & 1,005 days (Change Order No. 2 adds 245 days)

V. COMMENTS AND QUESTIONS

MDAD reports that an additional change order will be necessary to adjust the FAA's 75% cost share downward to reflect project completion at lower than the originally estimated project cost.

Additionally, as discussed in Section I of this analysis, the contractor has reserved rights to seek compensation for certain contract issues, and new issues may arise as work continues.

Attachment #1

6A1A

003145 Resolution

RESOLUTION RELATING TO NEW NORTHSIDE RUNWAY PROJECT AT MIAMI INTERNATIONAL AIRPORT, WAIVING THE REQUIREMENTS OF SECTIONS 2-8.3 AND 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY RELATING TO BID PROTEST PROCEDURES; APPROVING CONTRACT AWARD RECOMMENDATION BETWEEN GILBERT SOUTHERN CORP. (GSC) AND MIAMI-DADE COUNTY FOR MIA NEW NORTHSIDE RUNWAY FOR MDAD PROJECT NO. B046B(Aviation Department)

*Adopted**Resolution R-1370-00**Mover: Dr. Barbara M. Carey-Shuler**Second: Gwen Margolis**Vote: 8 - 0**Absent: Ferguson , Barreiro , Reboredo ,
Alonso , Seijas*

REPORT: Following adoption of the foregoing resolution, Commissioner Carey-Shuler made a motion for its reconsideration. This motion died due to a lack of second.

First Assistant County Attorney Murray Greenberg indicated for the record that the foregoing item was not being reconsidered and the Board could not take any further action on the foregoing resolution.

Chairperson Margolis granted Mr. Ron Shapo five minutes to make a presentation, even though the motion to reconsider failed.

Mr. Ron Shapo, attorney representing Gilbert Southern Corporation (GSC), appeared before the Board and stated that he would limit his comments to bid protest procedures and to be heard by the Board as it pertained to the foregoing item.

Mr. Shapo stated if given the opportunity to make a presentation he would present testimony that would establish that GSC, contrary to comments made had no knowledge that the Federal regulation in question had changed.

Mr. Shapo urged the Board to consider that the foregoing was not an appropriate matter before them and all facts had not been provided to the Board.

Commissioner Morales asked for staff's response to the comments made by Mr. Shapo.

Mr. Gary Dellapa, Aviation Director, stated that the bidder was in compliance and there was no need to reconsider the bid award. He stated that GSC had met the 10% Disadvantage Business Enterprise (DBE) goal and a bid bond was in place. In addition to that, the subcontractors listed in GSC's bid were certified and capable of doing the work. He indicated that GSC had not withdrawn its bid nor offered to do so. He stated that GSC had noted several concerns in correspondence but they were found in compliance, and were obligated to honor the bid and proceed with the project.

Mr. Dellapa disagreed with Mr. Shapo's interpretation and reiterated that there was no evidence that GSC would not be able to comply with its contractual obligation to meet the 10% DBE goal. He noted that firms found in noncompliance would be given an opportunity to appeal. He stated that the Federal Aviation Administration (FAA) had indicated that GSC was responsible and responsive as it related to the DBE.

In response to Commissioner Moss' inquiry in regard to why the FAA took a position, Mr. Dellapa responded that 75% of the foregoing project was Federally funded therefore it was governed by Federal

DBE regulations. He stated that the foregoing project was the largest in the Southeast region and therefore, the FAA had a particular interest in the foregoing. He noted that as part of the FAA's process the Minority Affairs Division of the Miami-Dade Aviation Department would make a determination as it pertained to compliance, due to the monetary risk.

Following discussion in connection with the foregoing, the Board proceeded with today's agenda.

6A1A SUPPLEMENT

003187 Report

ADDITIONAL INFORMATION RELATING TO CONTRACT AWARD
RECOMMENDATION BETWEEN GILBERT SOUTHERN CORP.
AND MIAMI-DADE COUNTY FOR THE NEW NORTHSIDE
RUNWAY PROJECT AT MAIMI INTERNATIONAL AIRPORT

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION AUTHORIZING ISSUANCE OF A NOTICE TO PROFESSIONAL CONSULTANTS FOR THE SELECTION OF ONE PROGRAM MANAGEMENT CONSULTANT FOR THE IMPLEMENTATION OF THE PEOPLE'S TRANSPORTATION PLAN

Miami-Dade Transit Agency

I. SUMMARY

This resolution seeks approval for Miami-Dade Transit (MDT) to advertise for the services of **Program Management Consultant** for the on-going implementation of the Peoples' Transportation Plan (PTP).

The Management Consultant will be tasked with, but is not limited to the following functions:

- Short and long range planning
- Facilities planning
- Project programming
- Feasibility Studies
- Traffic congestion Studies
- Alternatives Analysis
- Major Investments Studies
- Design oversight (Criteria and Standards)
- Engineering and Inspection Consultants
- Safety Certification
- Value Engineering
- Project Control
- Estimating Services
- Right of Way Acquisition
- Utility relocation and technical engineering skills

The initial term of this contract is expected to be seven (7) years.

II. PRESENT SITUATION

Miami-Dade County is currently using in-house staff and various outside contracts within different departments to accommodate several of the functions listed above. For example the Board of County Commissioners (BCC) recently approved a property appraisal services contract for acquisition of land associated with the PTP.

*** Further the County's Capital Improvement Construction Coordination (CICC) office already executes many of the same functions listed above. Recently the BCC also approved the PTP Expedite Ordinance, when this item came before the Transportation

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Committee, the Office of Legislative Analysis inquired as to whether the CICC had the manpower and/or expertise to handle the oversight of the build-out of the PTP. The response from the CICC to the OLA was that as current projects (i.e. QNIP, DORM, etc...) cycle through, that the CICC would be able to handle construction oversight.

The closest comparable contract within Miami-Dade County is the current contract between the Miami-Dade Aviation Department (MDAD) and the Dade Aviation Consultants (DAC).

III. POLICY CHANGE AND IMPLICATION

The implication of advertising and awarding this service is that the County will not have to hire as many "in-house" employees to oversee the build-out of the PTP. The departments involved in this program also contend that hiring a firm, or consortium of firms, to handle the oversight of the estimated \$17 billion construction program will help expedite the program by giving the County the expertise without having to hire the employees.

However, this work program is a thirty (30) year constant build-out. Any employees hired by the County now for this purpose, in all actuality, would be fully utilized for many years at a County Salary, instead of a multiplier. As with DAC (who has been under contract with the County for 12 years now), it is reasonable to estimate that the County will need these services for at least the next 20-30 years.

Further, as the County establishes a negotiated multiplier, the current "Industry Standard" according to the Public Works Department (See Items 2(H),(I),(J), &(K)) is a multiplier of **2.85** for office personnel and **2.1** for field personnel. **Therefore, for every \$1 the consultant pays an employee, the county would provide \$2.85 or \$2.10 to the consultant.** Multipliers like these are common practice in the consulting industry. These multipliers are designed to compensate the consultant for reasonable fringe benefits, overhead, and profit.

IV. ECONOMIC IMPACT

The estimated cost associated with this contract is \$84 million over seven (7) years (or \$12 million per year).

However, as of March 11, 2003 Miami-Dade County has paid DAC approximately \$178.5 million (an average of about \$16 million per year). The largest amount of compensation was paid out for FY 00/01 in the amount of \$20.4 million. This was at a smaller multiplier of 2.42 for a smaller scale project (approximately \$6 billion for the CIP as opposed to \$17 billion for the PTP build out).

*** For comparisons sake, the multiplier for the first ten (10) years of the DAC contract was 2.42.***

V. COMMENTS AND QUESTIONS

According to a March 2003, memorandum (Attachment 1), from previous County Manager Steve Shiver, The total cost of consulting services to Miami-Dade County was \$257 million. Not including other contracts entered into between that time until now, this contract would increase the total by approximately 32% to \$341 million.

This item presents a double edge sword to commissioners. On the one hand, the County needs the expertise to insure the PTP is handled as expediently as possible. However, the County also runs the risk of the publicity that has at times debunked contracts such as the DAC contract, as wasteful and self serving to special interests.

Funding Source discrepancy:

Further, the back-up information has conflicting information in terms of the funding source to be utilized for these services. Handwritten page 2 list the source as **100% FTA** (Federal Transportation Administration) and handwritten page 8 (a DBD memorandum) states that the **"...the contract is partially funded with federal dollars"**.

If it is in fact 100% Federally funded, which grant program are we accessing and how can we be sure that the County will receive a full funding agreement for these services, prior to establishing the specific services and selecting a recipient?

Attachment 1



MEMORANDUM

TO: Honorable Joe A. Martinez
County Commissioner, District 11

DATE: March 11, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Consulting Contract Inventory
Update

As requested on February 4, 2003 we have completed an inventory of the consulting services used throughout the County. Similar to the report prepared in response to your request last July 2002, we have defined consulting contracts to include all projects related to financial management, operational consulting, general management, and IT advisory services. Architectural and engineering contracts have been excluded, except for those contracts dealing with bond engineers.

Attached is a list of active consulting contracts as of January 31, 2003 used by all County Departments. Since the last report, a number of large IT state contracts have been replaced by County contracts. For your review, we have included the name of the consultant, the purpose of the contract, the type of consulting, and the contract amount. You will note that although the total cost associated with these consulting services is significant (\$257 million), three contracts account for over 79% of the total. These are: Dade Aviation Consultants (\$178.5 million), Brown & Caldwell (\$16.7 Million), and IBM (\$8.4 million). The remaining \$53.4 million represents 113 contracts utilized by all County Departments.

Attachment

Cc: Honorable Alex Penelas, Mayor
Honorable Chairperson and Members,
Board of County Commissioners
Assistant County Managers
Corinne Brody, Director, Office of Performance Improvement
Eric McAndrew, Office of Legislative Analysis

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION APPROVING THE PUBLIC WORKS DEPARTMENT'S USE OF THE GENERAL ENGINEERING CONSULTANT SERVICES CONTRACT WITH SAN MARTIN ASSOCIATES, INC. FOR PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECTS

Public Works Department

I. SUMMARY

These four (4) resolutions seek approval for the Public Works Department (PWD) to utilize four General Engineering and Project Management contracts for the Department's portion of the Peoples' Transportation Plan (PTP) Projects.

The four contracts are as follows:

- San Martin Associates, Inc. - \$4 million
- Civil-Cadd Engineering, Inc. - \$4 million
- CES Consultants, Inc. - \$4 million
- Network Engineering Services, Inc. - \$4 million

These firms will be paid by a negotiated multiplier of 2.85 for office personnel work and 2.1 for field personnel and office personnel working at the County's offices.

Therefore, for every \$1 the consultant pays an employee, the county would provide \$2.85 or \$2.10 to the consultant. Multipliers like these are common practice in the consulting industry. These multipliers are designed to compensate the consultant for reasonable fringe benefits, overhead, and profit.

II. PRESENT SITUATION

Three of these four contracts (San Martin, Civil-Cadd, and NES) were entered into in May of 2003 and are currently being utilized for infrastructure projects throughout the County. The fourth contract, with CES Consultants, has yet to be ratified by the Board of County Commissioners.

III. POLICY CHANGE AND IMPLICATION

The projects addressed in these contracts shall be eligible for funding by the Charter County Transportation Surtax (Surtax) if they are contained in the PTP and approved by the Citizens' Independent Transportation Trust (CITT).

The DPW contends that by allowing the department to utilize current contracts, these projects can be developed in a more timely manner. However, some may argue that utilizing existing contracts circumvents the competitive bidding process. The department

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states that these contracts were advertised and approved with the intention of PTP projects being contained with them.

Some Commissioners have been reluctant to approve the expansion of the Scopes of Work for current contractors, in the hopes that putting these contracts out to bid, the County might be able to be more inclusive to segments of the community that may want to bid on this type of work.

Further, on Thursday January 15, 2004, the Transportation Committee will hear an item offered by Miami Dade Transit (MDT) requesting approval to advertise for a Master Project Consultant for the implementation of the PTP.

IV. ECONOMIC IMPACT

Each of these for contracts has a contract ceiling of \$ 4 million for work on an "as needed" basis, for a total of \$ 16 million. The Department contends that the current contract ceilings should be enough to handle the projects included in the PTP along with the ongoing infrastructure projects.

Currently, these contracts are being funded from a variety of sources including Federal Emergency Management (FEMA) funds, Quality Neighborhood Improvement Program (QNIP) funds, Secondary Gas Tax funds, Local Option Gas Tax funds, and Capital Outlay Reserves.

This item will allow for PTP Surtax funds to be utilized for projects contained within the PTP.

However, if any of the PTP projects were contained in the Department's work program prior to the passage of the PTP, then these resolutions would allow for the department to offset the use those other funding sources with Surtax revenues. This may circumvent the desire of the County that such projects be funded through maintenance of effort.

V. COMMENTS AND QUESTIONS

The timing of the awarding of the initial three (3) contracts, in May of 2003 (only 6 months after the passage of the PTP) would imply that the Scope of Work being awarded to these firms was not intended to include PTP Projects, but rather to handle the normal ongoing efforts of the Department prior to the passage of the PTP.

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RESOLUTION REQUESTING APPROVAL TO ADVERTISE FOR FINANCIAL CONSULTING SERVICES AND WAIVER OF THOSE REQUIREMENTS OF ADMINISTRATIVE ORDER 3-34, UNDER THE HEADING "FORMATION OF SELECTION COMMITTEES" AND ALLOWING MEMBERS OF THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) TO SERVE ON THE SELECTION COMMITTEE AS VOTING MEMBERS

County Manager

I. SUMMARY

This resolution is seeking approval to advertise for proposals for financial consulting services to the Citizens Independent Transportation Trust (CITT).

II. PRESENT SITUATION

On July 9, 2002 the Board of County Commissioners passed Ordinance 02-117 creating the Citizens Independent Transportation Trust (CITT). The CITT was to have 15 members, one from each commission district, one appointed by the Mayor, and one appointed by the Miami-Dade County League of Cities. The role of the CITT was to oversee the expenditure and use of proceeds derived from the Charter County Transit System Surtax.

The main focus of the CITT was to monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levy of the surtax, and all other projects funded in whole or in part with surtax proceeds.

The Ordinance also required that the County Manager and County Attorney shall provide to the CITT adequate staff and support services to enable the CITT to carry out its duties and responsibilities.

III. POLICY CHANGE AND IMPLICATION

This resolution implies that the CITT does not feel the staff support received from the County has been adequate for the duties and responsibilities conveyed upon the CITT.

Further, this request creates the perception that the CITT does not trust that the financial and material analyses provide by the County regarding the collection and expenditure of Surtax revenues.

IV. ECONOMIC IMPACT

This resolution establishes an estimated contract ceiling of \$500,000 per year.

The County Manager proposes that these services be funded entirely through the Charter County Transportation Surtax.

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However the contract ceiling will actually be based on negotiated lump sum fees for specific tasks and a negotiated multiplier for professional, clerical, and administrative staff.

Recent contracts put forward by the Public Works Department list a 2.85 multiplier as the industry standard for Engineering Consulting work. Although the industry standard for Financial Consulting may be lower, it could be assumed that the multiplier would be in the 2.3 to 2.95 range. This means that for every dollar paid by the consultant to its employee, the CITT would reimburse the consultant between \$2.30 and \$2.95.

Multipliers like these are common practice in the consulting industry. These multipliers are designed to compensate the consultant for reasonable fringe benefits, overhead, and profit.

V. COMMENTS AND QUESTIONS

This resolution lends to the appearance of an untrusting and contentious relationship between the County and the CITT. Any perceived power struggle could create a lack of confidence of behalf of the public as to whether the PTP is being adequately implemented.

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LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION APPROVING REVISED FEE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND GREENBERG, TRAURIG, P.A. FOR THE ENVIRONMENTAL COST RECOVERY PROGRAM

County Attorney

I. SUMMARY

This resolution would approve a revised fee agreement with the law firm of Greenberg, Traurig, P.A. (Firm) for representing the County in actions involving the Environmental Cost Recovery Program for Miami International Airport (MIA). The previous agreement, which this fee schedule would replace, was approved in 1999.

The proposed agreement provides for payment to the Firm of: (a) monthly fees up to \$20,000 per month ("Monthly Capped Fees"), (b) reimbursement for services, time and material from sources outside the Firm ("Outside Service Providers"), and (c) Contingency Fees based on recoveries.

Collectively, Monthly Capped Fees paid after February 28, 2001 and fees paid to the Firm prior to February 28, 2001 ("Fees Paid" were \$1.555 million) are referred to in the agreement as "Offset Fees." Monthly Capped Fee payments cease if Offset Fees total more than \$3 million.

Per the limits specified in paragraph 8 of handwritten pp. 8-9, the County may first apply any Contingency Fees to reimburse itself a pro rata amount for Offset Fees paid to the Firm.

II. PRESENT SITUATION

Since 1993, the Aviation Department (MDAD) has been conducting environmental cleanup activities at MIA involving: (a) a consent order with the Department of Environmental Resources Management (DERM) and then (b) a consent order and settlement agreement with the Florida Department of Environmental Protection (DEP) (R-394-98, adopted April 21, 1998).

R-180-98, adopted February 18, 1999, approved the Environmental Cleanup and Cost Recovery (ECCR) Program at MIA, and approved retention of Greenberg Traurig, P.A. to represent the County. Under the ECCR, claims and lawsuits were to be filed to recover costs from any "Potentially Responsible Party" (PRP), including federal, state, and other entities and their insurance carriers.

The County Attorney's Office reports that, to date, approximately \$14 million has been recovered under this program, and additional recoveries are anticipated from actions that remain in process.

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III. POLICY CHANGE AND IMPLICATION

<u>1999 Contingency Fee Schedule</u>	<u>Proposed Contingency Fee Schedule</u>
15% of recoveries up to \$20 million	15% of recoveries up to \$20 million
5% of recoveries of \$20-100 million	7.5% if recoveries total more than \$20 million and do not exceed \$50 million
	10% if recoveries total more than \$50 million

IV. ECONOMIC IMPACT

Recoveries serve to offset expenditures under the ECCR program.

V. COMMENTS AND QUESTIONS

None.